



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,545	11/03/2003	David Teller	IMEX-0003-1	9941
22506	7590	06/14/2005	EXAMINER	
JAGTIANI + GUTTAG 10363-A DEMOCRACY LANE FAIRFAX, VA 22030			JASMIN, LYNDIA C	
			ART UNIT	PAPER NUMBER

3627

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/698,545	Applicant(s) TELLER, DAVID	
	Examiner Lynda Jasmin	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/20/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 28-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 28, at line 6, the recitation "each of which is linked to a product order of," is unclear. At lines 9-14, the recitation "... and then is returned to the retailer *by the local distributor* such that the provided receipt code for the product order ..." renders the claim indefinite since there is no indication that the distributor was provided with the receipt code. At line 9, only the customer was provided with a receipt code. Clarification is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. As best understood, claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Southam (6,594,641) in view of Pugliese, III et al. (2002/0072974).

Southam discloses a database stored in data storage of a retailer database computer (22), the database including a plurality of product orders (customer order) each of which comprises an order from a customer (10) to the retailer for purchase of one or more products to be delivered to the customer by an independent local

Art Unit: 3627

distributor (col 5, lines 20-26 and 55-56), and a plurality of data records (via ordering form 24), each of which is linked to a product order of, each data record containing independent local distributor information that relates to the product order and identities an independent local distributor who is geographically local to the customer (col. 6, lines 1-20; see claims 12 and 13), and is associated with a receipt code that is provided to the customer over an interactive computer network system such as the internet (via step 66; col. 6, lines 18-20 (via confirmation notification)). Southam further discloses sending message over the Internet to the independent local distributor, listing the products ordered and identifying the customer who ordered them (via forwarding to the third party (local distributor) customer identifier, customer preference and purchase order)

However, Southam fails to explicitly disclose returning to the retailer by the local distributor the provided receipt code such that the provided receipt code for the product order can be retrieved from the database and compared to the sent receipt code, such that a match indicates that the local distributor received the receipt code from the customer upon delivery of the ordered products and is warranted payment for delivery.

Pugliese discloses the concept of having a database that allows merchants to offer shoppers items at locations nearest them and tailor sales and promotions to fit the buying pattern of their Shopper group. Pugliese further discloses ShopLive (view as the online retailer) interfaces to various shipping and delivery providers such as FedEx and UPS delivery applications. It uses standard XML delivery notifications to these providers. ShopLive further interfaces to external credit card processing financial

Art Unit: 3627

institutions. Pugliese further discloses the concept of once the shipper has picked up the purchase from the pickup location; they send a shipping confirmation to ShopLive that is processed by a function process shipping confirmation that automatically matches the confirmation to the customer order and updates in 1704. Further, it is inherent that customer gives a confirmation the shipper upon signing for the delivery. Thus, from this teaching of Pugliese, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the ordering record of Southam to include the various shipping and delivery providers such as FedEx and UPS delivery applications taught by Pugliese in order to facilitate shipment of merchandise based on nearest store location. As per warrant payment for delivery, it is inherent that shipping companies will be pay based on weight, distance, and level of priority of any packages such as specification of delivery level of service for the customer product order

Conclusion

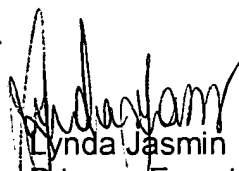
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chandra et al. Greenstone, Rothman et al., Burton et al, Bennett et al. and hunter et al. are cited as art of interest for discloses online purchases based on nearest location to customers.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Increased Flex.

Art Unit: 3627

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 6/10/05
Lynda Jasmin
Primary Examiner
Art Unit 3627

lj